

**SENATE SUBSTITUTE AMENDMENT 1,
TO 2005 SENATE BILL 652**

1 **AN ACT** *to renumber and amend* 961.235; *to amend* 146.81 (4), 961.23 (6),
2 961.41 (3j) and 961.453 (1) (a); *to repeal and recreate* 961.22 (2m); and *to*
3 **create** 961.235 (1) and 961.235 (3) of the statutes; **relating to:** substances
4 covered by certain criminal statutes relating to the controlled substance
5 pseudoephedrine and law enforcement officers' access to pharmacy records
6 regarding sales of pseudoephedrine products.

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

7 **SECTION 1.** 146.81 (4) of the statutes is amended to read:
8 146.81 (4) "Patient health care records" means all records related to the health
9 of a patient prepared by or under the supervision of a health care provider, including

1 the records required under s. 146.82 (2) (d) and (3) (c), but not those records subject
2 to s. 51.30, reports collected under s. 69.186, records of tests administered under s.
3 252.15 (2) (a) 7., 343.305, 938.296 (4) or (5) or 968.38 (4) or (5), records related to sales
4 of pseudoephedrine products, as defined in s. 961.01 (20c), that are maintained by
5 pharmacies under s. 961.235, fetal monitor tracings, as defined under s. 146.817 (1),
6 or a pupil's physical health records maintained by a school under s. 118.125. "Patient
7 health care records" also includes health summary forms prepared under s. 302.388
8 (2).

9 **SECTION 1m.** 961.22 (2m) of the statutes, as created by 2005 Wisconsin Act 14,
10 is repealed and recreated to read:

11 **961.22 (2m) PSEUDOEPHEDRINE.** Pseudoephedrine or any of its salts, isomers,
12 or salts of isomers.

13 **SECTION 2.** 961.23 (6) of the statutes, as created by 2005 Wisconsin Act 14, is
14 amended to read:

15 **961.23 (6)** No person other than a physician, dentist, veterinarian, or
16 pharmacist may purchase more than 7.5 grams of ~~a~~ pseudoephedrine contained in
17 a pseudoephedrine product within a 30-day period without the authorization of a
18 physician, dentist, or veterinarian.

19 **SECTION 3.** 961.235 of the statutes, as created by 2005 Wisconsin Act 14, is
20 renumbered 961.235 (2) and amended to read:

21 **961.235 (2)** ~~Records required under s. 961.23 (4) with respect to the sale of a~~
22 ~~pseudoephedrine product~~ sales may be kept in either a paper or electronic format and
23 shall be maintained by the pharmacy for at least 2 years. ~~Only~~ Except as provided
24 in sub. (3), only a pharmacist ~~or a law enforcement officer~~ may have access to records

1 ~~of pseudoephedrine sales and information recorded under s. 961.23 (4) with respect~~
2 ~~to the sale of a pseudoephedrine product contained in those records.~~

3 **SECTION 4.** 961.235 (1) of the statutes is created to read:

4 961.235 (1) In this section, “records of pseudoephedrine sales” means records
5 required under s. 961.23 (4) with respect to the sale of a pseudoephedrine product.

6 **SECTION 5.** 961.235 (3) of the statutes is created to read:

7 961.235 (3) A pharmacist shall make records required under s. 961.23 (4)
8 available to a law enforcement officer who requests them. Law enforcement officers
9 may make those records available to other persons or redisclose information from
10 those records to other persons only in connection with a criminal investigation or
11 prosecution under this chapter.

12 **SECTION 6.** 961.41 (3j) of the statutes, as created by 2005 Wisconsin Act 14, is
13 amended to read:

14 961.41 (3j) PURCHASES OF PSEUDOEPHEDRINE PRODUCTS. Whoever purchases
15 more than 7.5 grams of ~~a~~ pseudoephedrine contained in a pseudoephedrine product
16 within a 30-day period, other than by purchasing the product in person from a
17 pharmacy or pharmacist, is guilty of a Class I felony. This subsection does not apply
18 to a purchase by a physician, dentist, veterinarian, or pharmacist or a purchase that
19 is authorized by a physician, dentist, or veterinarian.

20 **SECTION 7.** 961.453 (1) (a) of the statutes, as created by 2005 Wisconsin Act 14,
21 is amended to read:

22 961.453 (1) (a) No person may, with the intent to acquire more than 7.5 grams
23 of ~~a~~ pseudoephedrine contained in a pseudoephedrine product within a 30-day

1 period, knowingly solicit, hire, direct, employ, or use another to purchase a
2 pseudoephedrine product on his or her behalf.

3 (END)